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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,121	08/21/2001	William J. Byrne	2222.0320000	7730
28393	7590	11/02/2006	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C. 1100 NEW YORK AVE., N.W. WASHINGTON, DC 20005			ELAHEE, MD S	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/934,121	Applicant(s) BYRNE ET AL.	
	Examiner Md S. Elahee	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Amendment***

1. This action is responsive to an amendment filed on 08/16/2006. Claims 10-18 are pending. Claims 1-9 and 19-55 have been previously cancelled.

***Response to Arguments***

2. Applicant's arguments filed on 08/16/2006 remarks have been fully considered but they are not persuasive because of the following:

***Claim Rejections - 35 USC § 102 in view of Surace:***

Regarding claim 10, the applicant argues on page 6 that the statement, the method of claim 10, which enables the user to save character traits for a virtual host in a user profile, overcomes the rejection of claim 10 in view of Surace. Examiner respectfully disagrees with this argument. The applicant didn't claim the limitation 'enables the user to save character traits'.

The applicant further argues that Surace nowhere teaches or suggests the storage of character traits as specified by a user. The examiner respectfully disagrees with this argument. Surace teaches the recording [i.e., storage] of script [i.e., character traits] as specified by a user (see page 12, paragraphs 0145-0146). Thus, the rejection of the claim in view of Surace will remain.

***Claim Rejections - 35 USC § 102 in view of Uppaluru:***

Regarding claim 10, the applicant argues on page 8 that Uppaluru does not teach or suggest "generating a virtual host with a consistent personality in accordance with the character

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traits". Examiner respectfully disagrees with this argument. Uppaluru teaches this limitation (col.18, line 7-44). Thus, the rejection of the claim in view of Uppaluru will remain.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 10 is rejected under 35 U.S.C. 102(e) as being anticipated by Surace et al. (U.S. 2005/0091056).

Regarding claim 10, Surace teaches enabling the user to specify personality information [i.e., character traits] for a virtual assistant [i.e., virtual host] (see page 8, paragraph 0102, page 9, paragraphs 0112, 0113).

storing the specified personality information in a user profile having preference information for an actor [i.e., user] (page 8, paragraph 0103, page 9, paragraphs 0112, 0113, page 12, paragraphs 0145-0147, 0149).

generating a virtual assistant with a consistent personality in accordance with the specified personality information (fig.1, 3; page 2, paragraph 0029, page 3, paragraph 0049, page 7, paragraph 0092, page 8, paragraph 0102).

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5. Claims 10, 11 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Uppaluru (U.S. 6,885,736).

Regarding claim 10, Uppaluru teaches enabling the user to specify voice sample [i.e., character traits] for a service agent [i.e., virtual host] (fig.1,2; col.13, lines 34-40, 66,67, col.14, lines 1-16, 26-35).

storing the specified character traits in a user profile having preference information for the user (col.13, lines 66,67, col.14, lines 1-16, 26-35, col.16, lines 48-64, col.17, line 61-col.18, line 6).

generating a virtual host with a consistent personality in accordance with the specified character traits (col.17, line 61-col.18, line 44).

Regarding claim 11, Uppaluru teaches information defining a tone of voice for the virtual host (col.9, lines 1-9).

Regarding claim 13, Uppaluru teaches information defining a background for the Virtual host (col.17, line 61-col.18, line 6).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Surace et al. (U.S. Pub. No. 2005/0091056) in view of Staples et al. (U.S. Patent No. 6,301,339).

Regarding claim 11, Surace fails to teach “information defining a tone of voice for the virtual host”. Staples teaches information specifying the tones for the client software (col.41, lines 48-67, col.42, lines 1-10; ‘specifying’ reads on the claim ‘defining’, ‘the tones’ reads on the claim ‘a tone of voice’ and ‘client software’ reads on the claim ‘virtual host’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Surace to allow information defining a tone of voice as taught by Staples. The motivation for the modification is to have the information defining a tone of voice in order to provide the specific characteristic.

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Surace et al. (U.S. Pub. No. 2005/0091056) in view of Sakurai et al. (U.S. Patent No. 5,189,702).

Regarding claim 12, Surace fails to teach “information defining a speed of voice for the virtual host”. Sakurai teaches information enabling a speed of voice for the host equipment (col.3, lines 33-49; ‘enabling’ reads on the claim ‘defining’ and ‘host equipment’ reads on the claim ‘virtual host’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Surace to allow information defining a speed of voice as taught by Sakurai. The motivation for the modification is to have the information defining a speed of voice in order to provide the specific characteristic.

11. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Surace et al. (U.S. Pub. No. 2005/0091056) in view of Eikeland (U.S. Patent No. 5,768,508).

Regarding claim 13, Surace fails to teach “information defining a background for the virtual host”. Eikeland teaches information defining a background for the client (col.7, lines 58-67, col.8, lines 37-40; ‘client’ reads on the claim ‘virtual host’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Surace to allow information defining a background as taught by Eikeland. The motivation for the modification is to have the information defining a background in order to provide the specific characteristic.

12. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Surace et al. (U.S. Pub. No. 2005/0091056) in view of Duffy et al. (U.S. Patent No. 5,911,043).

Regarding claim 14, Surace fails to teach “information defining a sex for the virtual host”. Duffy teaches information defining a sex for the user (col.1, lines 63-67, col.2, lines 1-12; ‘user’ reads on the claim ‘virtual host’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Surace to allow information defining a sex as taught by Duffy. The motivation for the modification is to have the information defining a sex in order to provide the specific characteristic.

13. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Surace et al. (U.S. Pub. No. 2005/0091056) in view of Bijl et al. (U.S. Patent No. 6,366,882).

Regarding claim 15, Surace fails to teach “information defining an accent for the virtual host”. Bijl teaches information defining an accent for the user (col.14, lines 6-13; ‘user’ reads on the claim ‘virtual host’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Surace to allow information defining an accent as taught by Bijl. The motivation for the modification is to have the information defining an accent in order to provide the specific characteristic.

14. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Surace et al. (U.S. Pub. No. 2005/0091056) in view of Wigan et al. (U.S. Patent No. 4,531,184).

Regarding claim 16, Surace fails to teach “information defining a formality level of a conversational style for the virtual host”. Wigan teaches information defining a formality level of a conversational facility for the subscriber (col.31, lines 32-67, col.32, lines 1-67, col.33, lines 1-67, col.34, lines 1-3; ‘facility’ reads on the claim ‘style’ and ‘subscriber’ reads on the claim ‘virtual host’). Thus, it would have been obvious to one of ordinary skill in the art at the time the



invention was made to modify Surace to allow information defining a formality level of a conversational style as taught by Wigan. The motivation for the modification is to have the information defining a conversational style in order to provide the specific characteristic.

Regarding claim 17, Surace teaches updating [i.e., adjusting] the prompt [i.e., conversational-type] based on the user interaction history information (page 8, paragraphs 0102, 0103).

Regarding claim 18, Surace teaches changing the formality level according to a level of user experience with the voice user interface (abstract; page 1, paragraph 0007, page 8, paragraphs 0102, 0103).

15. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uppaluru (U.S. 6,885,736) in view of Sakurai et al. (U.S. Patent No. 5,189,702).

Regarding claim 12, Uppaluru fails to teach “information defining a speed of voice for the virtual host”. Sakurai teaches information enabling a speed of voice for the host equipment (col.3, lines 33-49; ‘enabling’ reads on the claim ‘defining’ and ‘host equipment’ reads on the claim ‘virtual host’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Uppaluru to allow information defining a speed of voice as taught by Sakurai. The motivation for the modification is to have the information defining a speed of voice in order to provide the specific characteristic.

16. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uppaluru (U.S. 6,885,736) in view of Duffy et al. (U.S. Patent No. 5,911,043).

Regarding claim 14, Uppaluru fails to teach “information defining a sex for the virtual host”. Duffy teaches information defining a sex for the user (col.1, lines 63-67, col.2, lines 1-12; ‘user’ reads on the claim ‘virtual host’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Uppaluru to allow information defining a sex as taught by Duffy. The motivation for the modification is to have the information defining a sex in order to provide the specific characteristic.

17. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uppaluru (U.S. 6,885,736) in view of Bijl et al. (U.S. Patent No. 6,366,882).

Regarding claim 15, Uppaluru fails to teach “information defining an accent for the virtual host”. Bijl teaches information defining an accent for the user (col.14, lines 6-13; ‘user’ reads on the claim ‘virtual host’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Uppaluru to allow information defining an accent as taught by Bijl. The motivation for the modification is to have the information defining an accent in order to provide the specific characteristic.

18. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uppaluru (U.S. 6,885,736) in view of Wigan et al. (U.S. Patent No. 4,531,184).

Regarding claim 16, Uppaluru fails to teach “information defining a formality level of a conversational style for the virtual host”. Wigan teaches information defining a formality level of a conversational facility for the subscriber (col.31, lines 32-67, col.32, lines 1-67, col.33, lines 1-67, col.34, lines 1-3; ‘facility’ reads on the claim ‘style’ and ‘subscriber’ reads on the claim ‘virtual host’). Thus, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify Uppaluru to allow information defining a formality level of a conversational style as taught by Wigan. The motivation for the modification is to have the information defining a conversational style in order to provide the specific characteristic.

### *Conclusion*

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Schultz et al.** (U.S. 2002/0010584) teach Interactive voice communication method and system for information and entertainment.

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Md S. Elahee whose telephone number is (571) 272-7536. The examiner can normally be reached on Mon to Fri from 8:30am to 5:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ME

MD SHAFIUL ALAM ELAHEE

October 25, 2006

  
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